

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2985 of 2023

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1. Prakash Ram Son of Late Motilal Ram, resident of village - Chaklokman, Ward No.3, P.S. - Dalsinghsarai, District - Samastipur.
 2. Dev Narain Ram, Son of Late Bhagwan Ram, resident of village - Raiin Basera, Old Sub-Division, P.S. - Dalsinghsarai, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub-Divisional Officer, Dalsinghsarai, District - Samastipur.
4. The Block Development Officer, Dalsinghsarai, District - Samastipur.
5. The Dalsinghsarai Nagar Panchayat through its Executive Officer, Dalsinghsarai, District- Samastipur.
6. The Executive Officer, Dalsinghsarai Nagar Panchayat, Dalsinghsarai, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Akshansh Ankit, Advocate Mr. Ujjwal Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha (AAG 7) Mr. Ram Swaroop Prasad, Advocate Mr. O.P. Agarwal, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 17-08-2023 1. Heard learned senior counsel for the petitioners and
learned counsel for respondents.

2. The petitioners have filed writ petition for the
following reliefs:-

*"a) For a direction upon the Respondents compute
and make payment of arrears of salary and other benefits
after granting benefits of revised pay scale under 5th Pay
Commission, 6th Pay Commission and 7th Pay*



Commission to the Petitioners.

b) For a direction upon the Respondent Authorities to grant all pensionary benefits to the Petitioners w.e.f. their effective date of superannuation.

c) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand."

3. It is submitted by learned senior counsel for the petitioners that petitioners had earlier been dismissed when they approached this Court by way of a writ petition. Copy of the order passed in writ petition bearing **CWJC No. 12009 of 1998 with analogous cases** is annexed as Annexure-P/1. Heavy reliance has been placed on paragraphs 9 and 10 of the order passed in the writ proceedings, which read as follows:

9. The stand taken in the counter affidavits by the respondents in all the cases are identical. In my opinion, the stand which they have taken in the counter affidavits is based on the documents which have been brought on record by way of annexures to the writ applications. They have merely supported their action of dismissing the petitioners from service on the basis of confession of their guilt with respect to the charge framed against them. The documents which form the basis of the counter affidavits filed in different cases were dealt with in the order of this Court dated 27.11.1999 elaborately where this Court was of the



firm opinion that the workmen were induced to submit the admission of their guilt on the promise or understanding that on their admitting the guilt, they would be for-given and taken back in service. I do not find any reason, nor any material had been produced before me on the basis of which I am required to take a view different from the one taken in the order dated 27.11.1999 passed by this Court in CWJC No. 12009 of 1998. The orders dated 03.07.1998 which are under challenge in the present batch of writ applications with respect to the individual petitioners which have been brought on record as annexures in their respective writ applications, dismissing the petitioners from service are set aside. I am of the opinion that the dismissal of the petitioners from service, in the manner in which it has been done, is highly arbitrary and abuse of executive power and deserves to be deprecated.

10. I am also of the view that the petitioners are entitled for the backwages also as they have been compelled to remain out of service despite the fact that they were willing to perform their duties. It is directed accordingly, that the respondents shall be required to pay the petitioners their backwages within a period of six months from the date of receipt/production of a copy of this order. It is observed that the disciplinary authority, however, will be free to proceed against the petitioners from the stage of framing of charge-sheet which was admittedly, served upon the petitioners, in accordance with law."

4. It is submitted that even though the Court had



deprecatd the conduct of the respondents for issuing the order of dismissal, the authorities have not till date, given the petitioners their due in terms of the said order. Neither complete arrears have been paid, nor revision of the admissible salary, nor any pensionary benefits have been fixed.

5. This Court finds that the writ Court, in the proceedings earlier filed by the petitioners, had already issued direction for payment of backwages within a stipulated time frame.

6. The relief having been granted in an earlier writ proceedings, this Court is not inclined to pass any order substantially in respect of the same relief regarding dues/arrears of salary in a successive writ petition between the same parties. If the petitioners are desirous of availing their remedies for enforcement of the order passed in the writ proceedings earlier filed by them arising out of *CWJC Nos. 247 of 1999* and *248 of 1999* respectively, it would be open to them to invoke the appropriate proceedings.

7. Writ petition is dismissed.

(Madhuresh Prasad, J)

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